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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

VIOLA GARCIA,

Plaintiff(s),

v.

NANCY A. BERRYHILL, Acting Commissioner
of Social Security Administration,

Defendant(s).

Case No. 2:18-cv-00631-APG-NJK

ORDER

(Docket No. 1)

Plaintiff has requested authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis* (Docket No. 1), and has submitted a Complaint (Docket No. 1-3).

I. Application to Proceed *In Forma Pauperis*

Plaintiff has submitted the affidavit required by § 1915(a) showing an inability to prepay fees and costs or give security for them. Docket No. 1. Accordingly, the request to proceed *in forma pauperis* will be granted pursuant to § 1915(a). The Court will now review Plaintiff's complaint.

II. Screening the Complaint

When a party seeks permission to pursue a civil case *in forma papueris*, courts will screen the complaint pursuant to federal statute. *See* 28 U.S.C. § 1915(e). With respect to social security appeals specifically, judges in this District have outlined some of the basic requirements for complaints to satisfy the Court's screening. First, the plaintiff must establish that administrative remedies were exhausted pursuant to 42 U.S.C. § 405(g), and that the civil action was commenced within sixty days after notice of a final decision. Second, the complaint must indicate the judicial district in which the plaintiff resides.

1 Third, the complaint must state the nature of the plaintiff's disability and when the plaintiff claims to have
2 become disabled. Fourth, the complaint must contain a plain, short, and concise statement identifying the
3 nature of the plaintiff's disagreement with the determination made by the Social Security Administration
4 and show that the plaintiff is entitled to relief. *See, e.g., Graves v. Colvin*, 2015 WL 357121, *2 (D. Nev.
5 Jan. 26, 2015) (collecting cases).

6 The Court has reviewed Plaintiff's complaint, and finds these elements have been pled here.

7 **III. Conclusion**

8 Accordingly, the Court hereby **ORDERS** as follows:

- 9 1. Plaintiff's request to proceed *in forma pauperis* at Docket No. 1 is **GRANTED** with the
10 caveat that the fees shall be paid if recovery is made. At this time, Plaintiff shall not be
11 required to pre-pay the filing fee of four hundred dollars (\$400.00).
- 12 2. Plaintiff is permitted to maintain the action to conclusion without the necessity of
13 prepayment of any additional fees or costs or the giving of a security therefor. The Order
14 granting leave to proceed *in forma pauperis* shall not extend to the issuance of subpoenas
15 at government expense.
- 16 3. The Clerk of Court shall file the Complaint.
- 17 4. The Clerk of Court shall serve the Commissioner of the Social Security Administration by
18 sending a copy of the summons and Complaint by certified mail to: (1) Office of Regional
19 Chief Counsel, Region IX, Social Security Administration, 160 Spear St., Suite 899, San
20 Francisco, California 94105-1545; and (2) the Attorney General of the United States,
21 Department of Justice, 950 Pennsylvania Avenue, N.W., Room 4400, Washington, D.C.
22 20530.
- 23 5. The Clerk of Court shall issue summons to the United States Attorney for the District of
24 Nevada and deliver the summons and Complaint to the U.S. Marshal for service.
- 25 6. From this point forward, Plaintiff shall serve upon Defendant or, if appearance has been
26 entered by counsel, upon the attorney, a copy of every pleading, motion or other document
27 submitted for consideration by the court. Plaintiff shall include with the original paper
28 submitted for filing a certificate stating the date that a true and correct copy of the document

1 was personally served or sent by mail to the defendants or counsel for the defendants. The
2 court may disregard any paper received by a district judge or magistrate judge which has not
3 been filed with the Clerk, and any paper received by a district judge, magistrate judge or the
4 Clerk which fails to include a certificate of service.

5 IT IS SO ORDERED.

6 Dated: April 10, 2018

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10 NANCY J. KOPPE
11 UNITED STATES MAGISTRATE JUDGE
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